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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE CEMETERY AND FUNERAL BUREAU**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. A1 2018 290

13 **LARSON FAMILY MORTUARY,**
14 **ERIK J. LARSON**
1828 Broadway St., 2nd Fl #C
Santa Monica, CA 90404
15 **Funeral Establishment No. FD 2172,**

A C C U S A T I O N

16 **and**

17 **ERIK J. LARSON**
1828 Broadway St., 2nd Fl #C
18 Santa Monica, CA 90404
Funeral Director No. FDR 3041

19
20 Respondent.

21 Complainant alleges:

22 **PARTIES**

23 1. Sandra Patterson (Complainant) brings this Accusation solely in her official capacity
24 as the Acting Bureau Chief of the Cemetery and Funeral (Bureau), Department of Consumer
25 Affairs.

26 2. On or about May 30, 2013, the Bureau issued Funeral Establishment License No. FD
27 2172 to Larson Family Mortuary, Erik J. Larson (Respondent). The Funeral Establishment
28 License expired on May 31, 2018, and has not been renewed.

3. On or about March 26, 2008, the Bureau issued Funeral Director License No. FDR 3041 to Erik J. Larson (Respondent). The Funeral Director License expired on June 18, 2018, and has not been renewed.

JURISDICTION

4. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 118(b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board, Registrar, or Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 7686 of the Code provides that the bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

STATUTORY PROVISIONS

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 7691 of the Code states:

Conviction of a crime substantially related to the qualifications, functions and duties of the license holder in question constitutes a ground for disciplinary action. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

9. Section 7692 of the Code states:

Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer constitutes a ground for disciplinary action.

1 10. Section 7707 of the Code states:

2 Gross negligence, gross incompetence or unprofessional conduct in the
3 practice of funeral directing or embalming constitutes a ground for disciplinary
4 action.

5 11. Section 7709 of the Code states:

6 A plea or verdict of guilty or a conviction following a plea of nolo
7 contendere is deemed to be a conviction within the meaning of this article. The
8 bureau may order the license suspended or revoked, or may decline to issue a license,
9 when the time for appeal has elapsed, or the judgment of conviction has been
10 affirmed on appeal or when an order granting probation is made suspending the
11 imposition of sentence, irrespective of a subsequent order under the provisions of
12 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty
13 and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
14 the accusation, information or indictment.

15 **REGULATORY PROVISION**

16 12. California Code of Regulations, title 16, section 1252 states:

17 For the purposes of denial, suspension, or revocation of a license pursuant
18 to Division 1.5 (commencing with Section 475) of the Business and Professions
19 Code, a crime or act shall be considered to be substantially related to the
20 qualifications, functions or duties of a licensed funeral establishment, licensed funeral
21 director, or licensed embalmer if to a substantial degree it evidences present or
22 potential unfitness of a licensed funeral establishment, licensed funeral director, or
23 licensed embalmer to perform the functions authorized by his license in a manner
24 consistent with the public health, safety, or welfare. Such crimes or acts shall include
25 but not be limited to those involving the following:

26 (a) Conviction of a crime involving fiscal dishonesty.

27 (b) Any violation of the provisions of Chapter 12, Division 3 of the
28 Business and Professions Code.

COST RECOVERY

1 13. Section 125.3 of the Code provides, in pertinent part, that the board may request the
2 administrative law judge to direct a licentiate found to have committed a violation or violations of
3 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
4 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
5 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
6 included in a stipulated settlement.

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FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

14. Respondent is subject to disciplinary action under Code sections 490 and 7691, in conjunction with California Code of Regulations, title 16, section 1252, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a licensed funeral establishment and a licensed funeral director which to a substantial degree evidences his present or potential unfitness to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare, as follows:

a. On or about June 5, 2018, Respondent was found guilty by a jury and convicted of one felony count of violating Penal Code section 368(d) [theft of \$950.00 or more from an elderly or dependent adult], in the criminal proceeding entitled *The People of the State of California v. Erik Joseph Larson* (Super. Ct. Los Angeles County, 2017, No. BA452474). The court sentenced Respondent to three years in county jail, placed him on one-year probation with mandatory supervision, and ordered him to pay fees and restitution.

b. The circumstances surrounding the conviction are that in July 2016, an estate planning attorney notified the Los Angeles Police Department about suspected financial elder abuse. The investigation revealed that S.W., a 70-year old female, who suffers from Alzheimer disease, had buried her twin sister in February 2016 and used the services of the Respondent. Soon thereafter, the Respondent made contact with S.W. and moved into the residence of the deceased sister. The Respondent subsequently produced a new will which purportedly made him an heir and gave half of S.W.'s estate to the Respondent. Police also discovered over \$26,000 in unauthorized withdrawals from S.W.'s bank account into the Respondent's bank account. S.W.'s attorney told police that these withdrawals are not funeral expenses because the deceased sister's funeral expenses had already been paid. He added that S.W. has no surviving family members and no close friends and S.W. had planned to leave her entire estate to an animal care charity.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking Funeral Establishment License No. FD 2172, issued to Larson Family Mortuary, Erik J. Larson;
2. Revoking Funeral Director License No. FDR 3041, issued to Erik J. Larson;
3. Ordering Erik J. Larson to pay the Cemetery and Funeral Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: December 12, 2018 Sandra Patterson

SANDRA PATTERSON
Acting Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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